

APPEAL, CLOSED, MAG+

**U.S. District Court
Alabama Middle District (Montgomery)
CIVIL DOCKET FOR CASE #: 2:05-cv-00437-WKW-CSC
Internal Use Only**

Thomas v. Nicholson (MAG+)
Assigned to: Honorable William Keith Watkins
Referred to: Honorable Charles S. Coody
Case in other court: USCA, 07-13527-F
Cause: 42:2000 Job Discrimination (Race)

Date Filed: 05/10/2005
Date Terminated: 06/27/2007
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government
Defendant

Plaintiff

Larry D. Thomas, Sr.

represented by **Larry D. Thomas, Sr.**
3327 Lunceford Street
Montgomery, AL 36108
334-538-6939
PRO SE

Juraldine Battle-Hodge
207 Montgomery Street
Suite 215
Montgomery, AL 36104
334-262-1177
Fax: 334-263-5569
Email: battleb@bellsouth.net
TERMINATED: 03/20/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Zachary Timothy Collins
Zachary T. Collins, Attorney at Law,
LLC
207 Montgomery Street
Suite 213
Montgomery, AL 36104
334-263-5575
Fax: 334-263-5569
Email: zackcollins@tmail.com
TERMINATED: 03/20/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

R. James Nicholson
Secretary of Veteran Affairs

represented by **R. Randolph Neeley**
 U.S. Attorney's Office
 PO Box 197
 Montgomery, AL 36101-0197
 334-223-7280
 Fax: 223-7560
 Email: Rand.Neeley@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

BEGIN VOL. 1.

Date Filed	#	Docket Text
05/10/2005		(Court only) ***Joint Chambers added as Interested Party., ***Set Joint Chambers Flags (wcl,) (Entered: 05/11/2005)
05/10/2005	<u>1</u>	COMPLAINT against R. James Nicholson , filed by Larry D. Thomas, Sr. (attachments) (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(ajr,) (Entered: 05/11/2005)
05/10/2005	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Larry D. Thomas, Sr. (ajr,) (Entered: 05/11/2005)
05/10/2005	<u>3</u>	MOTION to Appoint Counsel by Larry D. Thomas, Sr. (ajr,) (Entered: 05/11/2005)
05/16/2005	<u>4</u>	(VACATED PURSUANT TO <u>20</u> ORDER) ORDER REFERRING CASE to Magistrate Judge Charles S. Coody for action or recommendation on all pretrial matters. Signed by Judge Myron H. Thompson on 5/16/05. (dij,) Modified on 1/10/2006 (ajr,). (Entered: 05/16/2005)
05/19/2005	<u>5</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis . Signed by Judge Charles S. Coody on 5/19/05. (ajr,) (Entered: 05/19/2005)
05/19/2005	<u>6</u>	ORDER denying <u>3</u> Motion to Appoint Counsel . Signed by Judge Charles S. Coody on 5/19/05. (ajr,) (Entered: 05/19/2005)
05/20/2005	<u>7</u>	Summons Issued as to R. James Nicholson; mailed CMRRR with copy of complaint (ajr,) (Entered: 05/20/2005)
05/20/2005	<u>8</u>	Summons Issued as to Leura Canary; mailed CMRRR with copy of complaint.(ajr,) (Entered: 05/20/2005)
05/25/2005	<u>9</u>	Return Receipt Card showing service of summons, complaint and order signed by Nancy Yarn for Leura Canary served on 5/23/2005, answer due 7/23/2005. (ajr,) (Entered: 05/26/2005)

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05/26/2005	<u>10</u>	Summons Issued to Alberto Gonzales; mailed CMRRR with copy of complaint.(ajr,) (Entered: 05/26/2005)
05/31/2005	<u>11</u>	Return Receipt Card showing service of summons and complaint signed by J. Wilson for R. James Nicholson.(ajr,) (Entered: 06/01/2005)
06/07/2005	<u>12</u>	NOTICE of Appearance by Zachary Timothy Collins, Juraldine Battle-Hodge on behalf of Larry D. Thomas, Sr (ajr,) (Entered: 06/08/2005)
07/22/2005	<u>13</u>	ANSWER to Complaint by R. James Nicholson.(Neeley, R.) (Entered: 07/22/2005)
08/09/2005	<u>14</u>	ORDER Rule 26 Meeting Report due by 8/30/2005. Signed by Judge Charles S. Coody on 8/9/05. (ajr,) (Entered: 08/09/2005)
08/30/2005	<u>15</u>	REPORT of Rule 26(f) Parties' Planning Meeting. (djy,) Additional attachment(s) added on 9/13/2005 to correct PDF document previously submitted which had omitted 3rd page of document (qc/djy,). (Entered: 08/31/2005)
09/01/2005	<u>16</u>	STRICKEN PURSUANT TO <u>17</u> SCHEDULING ORDER. SCHEDULING ORDER: Final Pretrial Conference set for 8/21/2006 in Montgomery before Honorable Myron H. Thompson; Non-Jury Trial set for 10/2/2006 trial term in Montgomery before Honorable Myron H. Thompson; Amended Pleadings due by 2/15/2006; Discovery due by 8/7/2006; Motions due by 5/23/2006; Mediation Notice due by 6/18/2006. Signed by Judge Charles S. Coody on 9/1/2005. (cc,) Modified on 9/2/2005 (cc,). (Entered: 09/01/2005)
09/02/2005	<u>17</u>	SCHEDULING ORDER: VACATING <u>16</u> SCHEDULING ORDER which set final pretrial conference for 8/21/2006 and non-jury trial for 10/2/2006; setting Final Pretrial Conference for 10/4/2006 in Montgomery before Honorable Myron H. Thompson; Non-Jury Trial set for 11/6/2006 trial term in Montgomery before Honorable Myron H. Thompson; Amended Pleadings due by 2/15/2006 for plaintiff and 3/15/2006 for defendant; Discovery due by 9/20/2006; Motions due by 7/6/2006; Mediation Notice due by 8/1/2006. Signed by Judge Charles S. Coody on 9/2/2005. (cc,) (Entered: 09/02/2005)
09/13/2005	<u>18</u>	NOTICE of Correction re <u>15</u> Report of Rule 26(f) Planning Meeting to correct PDF document previously submitted which had omitted 3rd page of document (Attachments: #(1) Corrected main document to Docket Entry <u>15</u>)(djy,) (Entered: 09/13/2005)
12/13/2005	<u>19</u>	ORDER Final Pretrial Conference set for 10/4/06 is RESET for 9/21/2006 before Honorable Myron H. Thompson; furnished to SC, YG, HC. Signed by Judge Charles S. Coody on 12/13/05. (ajr,) (Entered: 12/13/2005)
01/10/2006	<u>20</u>	ORDER VACATING <u>4</u> Order Referring Case to Magistrate Judge. Signed by Judge Myron H. Thompson on 1/10/06. (ajr,) (Entered: 01/10/2006)

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01/10/2006		(Court only) Clear MAG+ Flag pursuant to <u>20</u> order. (ajr,) (Entered: 01/10/2006)
01/17/2006	<u>21</u>	Case reassigned to Judge William Keith Watkins. Judge Myron H. Thompson no longer assigned to the case. (ajr,) (Entered: 01/17/2006)
01/17/2006		(Court only) *** Party Joint Chambers terminated., ***Clear Joint Chambers Flag (ajr,) (Entered: 01/17/2006)
01/17/2006		Due to case reassignment hearings reset as follows: Non-Jury Trial set for 11/6/2006 before Honorable William Keith Watkins (NO PDF Document attached- Order <u>17</u>); Final Pretrial Conference set for 9/21/2006 before Honorable William Keith Watkins (NO PDF Document attached- Order <u>19</u>) (dgy,) (Entered: 01/17/2006)
03/17/2006	<u>22</u>	MOTION for Juraldine Battle-Hodge and Zachary T. Collins to Withdraw as Attorney for Larry D. Thomas, Sr. (dgy,) (Entered: 03/17/2006)
03/20/2006	<u>23</u>	ORDER granting <u>22</u> Motion to Withdraw as Attorney. . Signed by Judge William Keith Watkins on 3/20/2006. (ag,) (Entered: 03/20/2006)
03/20/2006		*** Attorney Juraldine Battle-Hodge and Zachary Timothy Collins terminated per order <u>23</u> . (ag,) (Entered: 03/20/2006)
05/01/2006	<u>24</u>	ORDER REFERRING CASE to Magistrate Judge for all pretrial proceedings and entry of any orders or recommendations as may be appropriate. Signed by Judge William Keith Watkins on 5/1/06. (dgy,) (Entered: 05/01/2006)
05/02/2006	<u>25</u>	ORDER setting Scheduling Conference for 5/26/2006 11:00 AM in Courtroom 4B before Honorable Charles S. Coody. Status Conference set for 5/26/2006 11:00 AM in Courtroom 4B before Honorable Charles S. Coody. Signed by Judge Charles S. Coody on 5/2/2006. (cb,) (Entered: 05/02/2006)
05/19/2006	<u>26</u>	MOTION for Extension Time by Larry D. Thomas, Sr. (cb,) (Entered: 05/22/2006)
05/25/2006	<u>27</u>	ORDER that oral argument on the plaintiff's <u>26</u> MOTION for Extension of Time will be heard during the status and scheduling conference set for this case on 5/26/2006 at 11:00 a.m. in courtroom 4B. Oral Argument set for 5/26/2006 before Honorable Charles S. Coody. Signed by Judge Charles S. Coody on 5/25/2006. (cb,) (Entered: 05/25/2006)
05/26/2006	<u>28</u>	Minute Entry for proceedings held before Judge Charles S. Coody : Oral Argument re: Motion for Extension of Time held on 5/26/2006. (Recording Time FTR: 11:00 - 11:04.) (ws) (Entered: 05/26/2006)
05/31/2006	<u>29</u>	ORDER that <u>26</u> Motion for Extension of Timie is DENIED as MOOT. Signed by Judge Charles S. Coody on 5/31/2006. (cb,) (Entered: 05/31/2006)

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05/31/2006	<u>30</u>	SCHEDULING ORDER: All Discovery shall be completed on or before 9/11/2006. Any dispositive motions and evidentiary materials in support of motions shall be filed on or before 10/11/2006. Signed by Judge Charles S. Coody on 5/30/2006. (cb,) (Entered: 05/31/2006)
07/14/2006	<u>31</u>	Plaintiff's Motion for Leave to File an Amended Supplemental Complaint by Larry D. Thomas, Sr. (Attachments: # <u>1</u> Proposed Amended Complaint)(cb,) (Entered: 07/17/2006)
07/18/2006	<u>32</u>	ORDER that on or before 8/1/2006, the opposing party shall show cause why the <u>31</u> Motion for Leave to File an Amended Supplemental Complaint should not be granted. Show Cause Response due by 8/1/2006. Signed by Judge Charles S. Coody on 7/18/06. (cb,) (Entered: 07/18/2006)
08/03/2006	<u>33</u>	MOTION for Leave to File <i>Response Out of Time</i> by R. James Nicholson. (Attachments: # <u>1</u> Exhibit Response)(Neeley, R.) (Entered: 08/03/2006)
08/10/2006	<u>34</u>	ORDER that the defendant's <u>33</u> Motion for Leave to File a Response Out of Time and <u>34</u> Motion for Leave to File an Amended Supplemental Complaint are hereby GRANTED. Signed by Judge Charles S. Coody on 8/10/2006. (cb,) (Entered: 08/10/2006)
08/30/2006	<u>35</u>	ORDER as follows: Final Pretrial Conference set for 9/21/06 is RESCHEDULED to 1/5/2007 before Honorable William Keith Watkins. Jury Trial set for 11/6/2006 is RESCHEDULED to 2/12/2007 before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 8/30/2006. (cb,) (Entered: 08/30/2006)
08/30/2006		(Court only) ***Jury Trial set for 2/12/2006 terminated, set in error. Reset Non-Jury Trial from 11/6/2006 to 2/12/2007 before Honorable William Keith Watkins. (cb,) (Entered: 08/30/2006)
10/11/2006	<u>36</u>	MOTION to Dismiss <i>or in the Alternative, Motion for Summary Judgment</i> by R. James Nicholson. (Neeley, R.) (Entered: 10/11/2006)
10/11/2006	<u>37</u>	BRIEF/MEMORANDUM in Support re <u>36</u> MOTION to Dismiss <i>or in the Alternative, Motion for Summary Judgment</i> filed by R. James Nicholson. (Attachments: # <u>1</u> List of Exhibits# <u>2</u> Exhibit 1# (3) Exhibit 2# <u>4</u> Exhibit 3# <u>5</u> Exhibit 4# (6) Exhibit 5# <u>7</u> Exhibit 6# <u>8</u> Exhibit 7# <u>9</u> Exhibit 8# <u>10</u> Exhibit 9# <u>11</u> Exhibit 10# <u>12</u> Exhibit 11-19# <u>13</u> Exhibit 20-30# <u>14</u> Exhibit 31# <u>15</u> Exhibit 32)(Neeley, R.) Additional attachment(s) added on 10/17/2006 (cb,). Additional attachment(s) added on 4/4/2007 (cb,). (Entered: 10/11/2006)
10/11/2006	<u>38</u>	MOTION to Substitute by R. James Nicholson. (Attachments: # <u>1</u> # <u>2</u>)(Neeley, R.) (Entered: 10/11/2006)
10/11/2006		MOTION for Summary Judgment by R. James Nicholson. No pdf attached to this entry. See <u>36</u> Motion to Dismiss for pdf. (cb,) (Entered: 10/16/2006)

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10/12/2006	<u>39</u>	MOTION for Leave to File <i>Document</i> by R. James Nicholson. (Attachments: # <u>1</u>)(Neeley, R.) (Entered: 10/12/2006)
10/16/2006	<u>40</u>	ORDER granting <u>38</u> Motion to Substitute and <u>39</u> Motion for Leave to File . Signed by Judge Charles S. Coody on 10/16/2006. (cb,) (Entered: 10/16/2006)
10/16/2006	<u>41</u>	ORDER that <u>36</u> Motion for Summary judgment is set for submission on or before 10/31/2006. Signed by Judge Charles S. Coody on 10/16/2006. (cb,) (Entered: 10/16/2006)
10/16/2006	<u>42</u>	MOTION to Deny <u>38</u> MOTION to Substitute by Larry D. Thomas, Sr. (cb,) (Entered: 10/17/2006)
10/18/2006	<u>43</u>	ORDER denying <u>42</u> Motion to Deny Substitute . Signed by Judge Charles S. Coody on 10/18/2006. (cb,) (Entered: 10/18/2006)
10/31/2006	<u>44</u>	Plaintiff's Motion to Set Trial Date, or Alternative Motion for Summary Judgment by Larry D. Thomas, Sr. (cb,) (Entered: 11/02/2006)
10/31/2006	<u>45</u>	MEMORANDUM in Support re <u>44</u> MOTION for Summary Judgment MOTION Set Trial Date . (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5# <u>6</u> Exhibit 6# <u>7</u> Exhibit 7# <u>8</u> Exhibit 8# <u>9</u> Exhibit 9# <u>10</u> Exhibit 10# <u>11</u> Exhibit 11# <u>12</u> Exhibit 12# <u>13</u> Exhibit 13# <u>14</u> Attachment-Other Supporting Documents)(cb,) (Entered: 11/02/2006)
11/03/2006	<u>46</u>	ORDER Final Pretrial Conference set for 1/5/2007 10:00 AM in Courtroom 2E before Honorable William Keith Watkins; Proposed Pretrial Order due by 1/2/2007; Non-Jury Trial set for 2/12/2007 trial term in Montgomery before Honorable William Keith Watkins. Signed by Judge William Keith Watkins on 11/3/2006. (cc,) (Entered: 11/03/2006)
11/15/2006	<u>47</u>	REPLY BRIEF re <u>44</u> MOTION for Summary Judgment MOTION Set Trial Date, <u>45</u> BRIEF/MEMORANDUM in Support, filed by R. James Nicholson. (Neeley, R.) (Entered: 11/15/2006)
12/21/2006	<u>48</u>	ORDER that the February 12, 2007 trial and January 5, 2007 pretrial conference set in this cause are CONTINUED GENERALLY pending resolution of the motion for summary judgment. Signed by Judge William Keith Watkins on 12/21/2006. (cb,) (Entered: 12/21/2006)
12/21/2006	<u>49</u>	MOTION for Extension of Time by Larry D. Thomas, Sr. (cb,) (Entered: 12/22/2006)
03/16/2007	<u>50</u>	ORDER denying <u>49</u> Motion for Extension of time. Signed by Judge Charles S. Coody on 3/16/07. (sl,) (Entered: 03/16/2007)
04/05/2007	<u>51</u>	ORDERED that, on or before 4/12/07, the defendant shall re-scan and submit a legible copy of Defendant's Exhibit 1 re <u>37</u> Evidentiary Materials to this court. Signed by Judge Charles S. Coody on 4/5/2007. (cb,) (Entered: 04/05/2007)

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04/12/2007	<u>52</u>	MOTION for Extension of Time to File <i>Exhibit</i> by R. James Nicholson. (Neeley, R.) (Entered: 04/12/2007)
04/12/2007	<u>53</u>	Response to <u>51</u> Order by Larry D. Thomas, Sr. (Attachments: # <u>1</u> Exhibit 1)(cb,) (Entered: 04/13/2007)
04/13/2007	<u>54</u>	STIPULATION re <u>53</u> Response to Order by R. James Nicholson. (Neeley, R.) (Entered: 04/13/2007)
04/13/2007	<u>55</u>	ORDER that the defendant's <u>52</u> Motion for an Extension of Time to File an original SF-50 Notice of Personnel Action or in the alternative a legible copy of same is DENIED as MOOT. Signed by Judge Charles S. Coody on 4/13/2007. (cb,) (Entered: 04/13/2007)
05/07/2007 BEGIN VOL. 2.	<u>56</u>	REPORT AND RECOMMENDATIONS of the Magistrate Judge that the defendant's <u>36</u> MOTION for Summary Judgment be GRANTED and that this case be DISMISSED with prejudice. It is further the Recommendation of the Magistrate Judge that the costs of this proceedings be taxed against the plaintiff. Objections to R&R due by 5/21/2007. Signed by Judge Charles S. Coody on 5/7/2007. (cb,) (Entered: 05/07/2007)
05/18/2007	<u>57</u>	MOTION for Extension of Deadline (Extension of Time) re <u>56</u> REPORT AND RECOMMENDATIONS by Larry D. Thomas, Sr. (cb,) (Entered: 05/21/2007)
05/21/2007	<u>58</u>	ORDERED that plaintiff is granted an extension to and including 6/7/07 to file any objections to this court's Recommendation to dismiss this case with prejudice. Objections to R&R due by 6/7/2007. Signed by Judge Charles S. Coody on 5/21/07. (sl,) (Entered: 05/21/2007)
06/07/2007	<u>59</u>	OBJECTION to <u>56</u> Recommendation (Rebuttal in the damages seek by plaintiff) by Larry D. Thomas, Sr. (Attachments: # <u>1</u> Exhibit A-Quick Reference Guide to a Permanent Change of Stations# <u>2</u> Exhibit B-Fax Document of Job Description to Mr. Thomas 5/13/03# <u>3</u> Exhibit C-Altered Email# <u>4</u> Exhibit D-Removed Emails# <u>5</u> Exhibit E-Rearranging emails# <u>6</u> Exhbiit F-Mr. Greer# <u>7</u> Exhibit G-Office of Personnel Management Job Duties# <u>8</u> Exhibit H-Example of Training Form# <u>9</u> Exhibit I-Educational Opportunities Mgt.# <u>10</u> Exhibit J-Case Study Law)(sl,) (Entered: 06/08/2007)
06/27/2007	<u>60</u>	ORDERED that: (1) the <u>59</u> Objection to the Recommendation of the Magistrate Judge is OVERRULED; (2) The Recommendation of the Magistrate Judge is ADOPTED; and (3) This case is DISMISSED with prejudice. An appropriate judgment will be entered. Signed by Judge William Keith Watkins on 6/27/2007. (cb,) (Entered: 06/27/2007)
06/27/2007	<u>61</u>	FINAL JUDGMENT that: (1) Judgment is entered in favor of the defendant and against plaintiff; and (2) This action is DISMISSED with prejudice; and (3) Costs are taxed against the plaintiff. The Clerk of the Court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the FRCP. Signed by Judge William

END VOL. 1.

	CONT. VOL. 2	Keith Watkins on 6/27/2007. (Attachments: # <u>1</u> Civil Appeals Checklist)(cb,) (Entered: 06/27/2007)
07/03/2007	<u>62</u>	BILL OF COSTS by R. James Nicholson. (Attachments: # <u>1</u> Invoice)(Neeley, R.) (Entered: 07/03/2007)
07/05/2007	<u>63</u>	Costs Taxed in amount of \$ \$587.75 against Larry D. Thomas, Sr. (cb,) (Entered: 07/05/2007)
07/27/2007	<u>64</u>	NOTICE OF APPEAL by Larry D. Thomas, Sr. to the United States Court of Appeals for the Eleventh Circuit from the <u>60</u> Order Adopting Report and Recommendations, <u>61</u> Judgment, entered on 6/27/07. Copies mailed (ydw,) (Entered: 07/30/2007)
07/27/2007		USCA Appeal Fees received \$ 455 receipt number 0898 re <u>64</u> Notice of Appeal filed by Larry D. Thomas, Sr. (ydw,) (Entered: 07/30/2007)
07/30/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet and Order to US Court of Appeals re <u>64</u> Notice of Appeal (ydw,) (Entered: 07/30/2007)
08/01/2007	<u>65</u>	RECEIVED TRANSCRIPT REQUEST re <u>64</u> Notice of Appeal from pro se appellant Larry D. Thomas, Sr, with following notaion: "No transcript is required for appeal purpose" (ydw,) (Entered: 08/03/2007)
08/07/2007		USCA Case Number 07-13527-F for <u>64</u> Notice of Appeal filed by Larry D. Thomas, Sr. (ydw,) (Entered: 08/07/2007)

END VOL. 2.